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## BOOK REVIEWS.

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LECTURES ON THE FOURTEENTH ARTICLE OF AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES. Delivered before the Dwight Alumni Association by WILLIAM D. GUTHRIE. Boston: Little, Brown & Co. 1898.

Mr. Guthrie's lectures furnish most entertaining reading and at the same time display great thoroughness of learning. Especially noteworthy is the author's minute familiarity with all the recent cases. His views are "views of the day" in an exaggerated degree; he expresses in the most pronounced form the present increasing tendency to shoulder upon the Federal courts responsibility for everything. He wants further extension of the "constitutional guaranties" to protect foreign corporations from state invasion of their "property rights" and of what he thinks should be their "privileges and immunities" (see p. 55). He wants to construe the first eight amendments as incorporated into the restrictions on state action by virtue of this "magna charta," as he calls the Fourteenth Amendment, and thinks the courts will eventually alter their position and make such a construction (p. 58, *et seq.*). The language of the Reconstruction Committee which reported the Amendment is quoted to support this interpretation, and the contention is made that the "question has yet to be squarely decided by the Supreme Court in some case properly raising the point and fully presenting it in connection with the intention of the framers of the Fourteenth Amendment. To this intention . . . not the slightest reference has heretofore been made in any case . . ." (p. 64).

After reading this language it seems a little curious to go back to an earlier lecture and discover that "the Fourteenth Amendment was not adopted in order . . . to vest in the Supreme Court general supervision over the legislation of the states, with authority to nullify such as it did not approve. If this were not so, the Supreme Court would become the censor of practically all state statutes and the tribunal of appeal from all legislation regulating or affecting individual liberty or property rights" (p. 43). What less than this would result from a construction which embodies in the Fourteenth Amendment all the first eight amendments, and gives foreign corporations the "privileges and immunities" of citizens? We have a condition of affairs even now too nearly approaching that described. Mr. Guthrie (p. 28) points out that the ten years since the appointment of Chief Justice Fuller, have been the period of the greatest activity of the Supreme Court and that this greatest activity is occasioned principally by cases under the Fourteenth Amendment. "More cases involving the Fourteenth Amendment

are now presented to the Supreme Court for adjudication than upon any other branch of jurisprudence" (p. 27). Our "due process" and "equal protection" cases already clog the wheels of justice. Laws and ordinances in every other country considered the appropriate exercise of administrative authority, are here attacked in District, Circuit, Supreme courts, and finally after litigation often lasting years are solemnly pronounced unconstitutional.

The five lectures are entitled as follows: I, Of the History of the Fourteenth Amendment (very interesting); II, The Principles of Construction and Interpretation; III, Of Due Process of Law; IV, Of the Equal Protection of the Laws; V, Of the Rules of Practice. There is added a well annotated copy of the Constitution, which has an index separate from that of the lectures.

R. W. W.

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THE COMMERCE CLAUSE OF THE FEDERAL CONSTITUTION. By E. PARMELEE PRENTICE and JOHN E. EGAN. Chicago: Callaghan & Company. 1898.

The Commerce Clause of the Constitution has become, by force of the increasing importance of the subject upon which it acts, most vitally interesting to all who desire that the constitution may be found equal to the enormous strain new occasions are ever calling upon it to endure.

Our authors have called attention to this clause as a "peace-maker." This it most undoubtedly has been, and, perhaps, the thought has a wider application than the writers intended. The throwing down of any barrier, be it industrial or otherwise, which divides the selfish interest of one set of men from those of another set, is usually equal to the formation of a bond of union. Our constitution in this, as in many other apparently minor points, has in itself the seeds of many a peaceful revolution, if it be but preserved until the slow processes of nature allow the harvest to succeed the seed time. The events of the past few years, however, may lead many to ask if, under certain interpretations, this same clause may not be rather the promotor of passions such as lead to violence and bloodshed rather than to the calm ways of peace. When the authority of the peace-maker is invoked to justify the utterance of such militant words as these, "If the emergency arises, the army of the Nation and all its militia are at the service of the Nation to compel obedience to its laws." *In re Debs*, 158 U. S. 582, the promise of peace seems silenced by these harsher sounds. Our authors, however, do not attempt to look far into the future, they give us what has been done, and give it in the usual mode. That is, they divide their subject into heads and sub-heads, and arrange the cases in orderly progression under these. Our judges should be flattered in these latter days of books composed of extracts from their decisions strung together with slender connecting threads by